

1904-031  
Lee Co.

Chancery Causes: E. S. Flanary vs. Elizabeth Stout &c

Ely, Barker, Slomp, Hobbs, Reazor, Pridemore, Haburn, Wynn,  
Pennington, Bailey

1 Plat

CA-Estate Dispute  
T-Property



To the Honorable W. A. W. Sherr, Judge of the Circuit  
Court of Lee County Va.

Humbly complaining shewith unto your honor,  
your complainants, E. S. Flanary, J. G. C. Flanary, J. M.  
Flanary, Vesta Flanary, M. G. Ely, Joel Barker, C. F. Flanary,  
Nanny Sherr, J. C. Hobbs, Dock Hobbs, Zach Hobbs,  
Flora Prosser Susan Pridemore, Mary Ely and Frank  
Hoburn, that on the day of 18- one S. S. Sherr,  
and Cleanah Flanary, both now deceased, were in their  
life time, seized and possessed, jointly, of certain  
real estate, lying in the County of Lee, and on the  
North side of the Stone Mountain, in what is known  
as the Crab Orchard, and bounded as follows: Beginning  
at a stake in the Patten line, at the North Fork of  
Powell's River, and with that line S. 54. E. 530.  
poles to 3 Chestnuts and 3 gums, on top of Stone  
Mt; thence N. 57. E. 72 poles, to a stake, thence North  
54 W. 400. poles to a stake at the mouth of the Little  
Crab Orchard, thence down the North Fork with  
its meanders to the Beginning containing 270 acres -  
more or less, and being so thereof seized and  
possessed. some time in the year 18- S. S. Sherr  
deported this life intestate, leaving <sup>(1)</sup> D. C. & <sup>(2)</sup> C. Sherr,  
Vesta Flanary <sup>(3)</sup> ne Sherr, Susan Pridemore <sup>(4)</sup> ne Sherr,  
and alpha Hoburn <sup>(5)</sup> ne Sherr now deceased, having an only  
Son Frank Hoburn as his at law, <sup>children and heirs at law</sup> D. C. & C. Sherr,  
in the year sold their two-fifths undivided interest  
in said land to George McKinney, who sold to Joel  
Barker, who sold to J. H. Davidson, who sold to



to M. G. Ely and Joel Barker, that the said  
Ethanah Flanary departed this life intestate  
leaving E. S. Flanary, J. F. C. Flanary, C. F. Flanary<sup>3</sup>  
J. W. Flanary, Eliza Wynn, nee Flanary, Dec (leaving, namely  
Stump, nee Wynn only daughter and heir at Law) Emily Hobbs,  
nee Flanary Dec (leaving J. C. Hobbs, Husband and heir by Curtesy  
Rosa Pennington Dec, (leaving two or three infant children  
names not known) Zach Hobbs, Doek Hobbs, and Ewing  
Hobbs who is an infant and <sup>children and heirs at Law -</sup> Mary Ely nee Hobbs,)  
Sinda Bailey nee Flanary, Dec (leaving Flora Presor,  
nee Bailey, Rebecca Bailey, James Bailey, Harisum Bailey,  
Green Bailey, Husband and heir by Curtesy, and perhaps  
others unknown to complainants, children and  
heirs at Law) and Elizabeth Stout, nee Flanary  
his only children and heirs at Law,  
And your Complainants further state  
that the said real estate is as they believe  
not susceptible of partition among the  
parties entitled thereto, and your Complainant  
allege that the said lands should be sold  
and the proceeds distributed among the  
parties in proportion to their respective interests.  
In tender consideration whereof, and forasmuch as your  
Complainants are remediless in the premises, save by  
the aid of a court of Equity, your Complainants pray  
that the said Elizabeth Stout, Rebecca Bailey, James  
Bailey, Green Bailey, Harisum Bailey, and Ewing Hobbs,  
and — Pennington, — Pennington —



Pennington, the lost four being infants, be made parties defendants to this bill, and answer the same but not on oath, that being waived, that a proper Guardian ad Litem be assigned the infant defendants, to defend their interests in this suit, that Commissioners be appointed to locate and survey said tract of land and ascertain and report whether or not said land is susceptible of partition, and if not that it then be sold, and the proceeds distributed among the parties entitled thereto, that proper process may issue against all the defendants, that order of publication be posted and published against the non resident and unknown defendant, and that such other further and general relief may be afforded your complainants as the nature of their case may require, or to Equity shall seem meet, And your orator will ever pray etc,

M. G. Ely, p. g.



# Plffs Costs

Murray Clerk 7.31  
 Sheriff 1.50  
 ally 15.00  
 G.A.L. 5.00  
 Printer 5.00  
 W.E. Thompson 6.00  
 Comrs { E.M. Cooper 4.00  
 J.K. Pegg 4.00  
 Wm M Huff 2.00  
 E.E. Witt 2.00  
 A.E. Morris 2.00  
 Lee Barker 2.00  
 Ewing Clerk 2.90  
 \$88.71

229.35  
 4.19

5729.35  
 5.87  
 29.30  
 \$35.22

<sup>1<sup>st</sup></sup>  
 E. S. Flanary et al. off  
 vs. H. Bill in Chancery.  
 Elizabeth Stout et al. sep.

1902 2<sup>nd</sup> May rules bill  
 filed + O.P. for non-  
 residents ans of  
 G.A.L. filed + Contd  
 " 1<sup>st</sup> June O.P. Complete  
 + Cause set for hear-  
 ing.



To the Honorable H.A.W. Skken, Judge of the Circuit Court  
of Lee County, Virginia:

The answer of Ewing Hobbs, \_\_\_\_\_ Pennington, \_\_\_\_\_  
Pennington and \_\_\_\_\_ Pennington, infants under the age of twenty-  
one years, by Geo.P.Cridlin, their guardian ad litem assigned to de-  
fend them in this suit, to a bill of complainant exhibited against them  
and others in this Honorable Court by E.S.Flanary and others.

The respondents reserving to themselves the benefit of all  
just exceptions to said bill, for answer thereto, or to so much thereof  
as they are advised that it is material they should answer, by their  
said guardian ad litem answer and say:-

That they are infants of tender years, and by reason of their  
infancy, are incapable of understanding, or of taking care of their  
rights and interests. They, therefore, by their said guardian, com-  
mend themselves and their rights and interests to the protection of  
the Court, and pray that no decree may be pronounced which will tend  
to their prejudice.

And having fully answered the said respondents pray to be  
hence dismissed with their reasonable costs in this behalf expended,  
and they will ever pray &c.,

Geo. P. Cridlin G.A.L.  
for infant defendants.

Sworn to before me, this May 21st, 1902, by Geo.P.Cridlin, \*  
Guardian ad litem.

Given under my hand this the

A.B. Munsey  
Clerk of Circuit Court.



E. S. Flannery et al  
vs. { On Chy.  
Elizabeth Stout et al  
G. A. G. Answer.

Geo. P. Cridlin G. A. G. fee \$5.00



E. S. Flanary, et al. . . . . .Plff.

vs. (In Chancery

Elisabeth Stout, et al. . . . . . Deft.

This cause came on this day to be heard uppn the papers formerly read in the cause, and was argued by counsel, and on motion of M. G. Ely, one of the parties in interest, said cause was stricken frrom the docket.



Ex. J. Flannery et al.  
vs. { Belline Lowrey  
Elizabeth Stout et al.  
-----  
Em. C. B. No. 7.  
Page 459

Enter this

J. A. W. Sherr

May 17<sup>th</sup> 1904



E.S.Flanary, and others, Plaintiffs,  
Against) In Chancery,  
Elizabeth-Stout, and others.

This cause came on this day to be heard upon the papers formerly read in the Cause, the report of Commissioners, Elbert Thompson, E.M. Cooper and J.K.P. Legg, and was argued by counsel:

On consideration of which, it appearing to the court <sup>from said report</sup> that it is impracticable to partition said tract of land among the parties entitled thereto, it is therefore adjudged, ordered and decreed that M.G. Ely, who is hereby appointed a special Commissioner for purpose, will sell said lands <sup>described in said bill and report</sup> at the front door of the Courthouse of the County of Lee, on some Court day, to the highest and best bidder, on a credit of one and two years time, excepts costs of suit and commissions on sale which will be required paid cash in hand, and for the deferred payments he will take notes with good personal security bearing interest from date, after having advertised the same by written or printed notices posted at the front door of the Courthouse and in the vicinity of said land, but said Commissioner before acting hereunder shall execute bond before the Clerk of the Court in the sum of \$500.00 with approved security, conditioned according to law, and report to Court. And this cause is continued.



E. S. Fulmer and others  
vs. } Deene no. 2  
Elizabeth Stout and others

Ent. Co. B. No 7. P. 197

Enter this

H. A. W. Flann

Nov. 14<sup>th</sup> 1902.



E.S. Flanary, et als,

Plaintiffs

Vs.

In Chancery.

Elizabeth Stout, et als,

Defendants

This cause came on this day to be heard upon the bill of complainants, and order of publication, duly posted and published as required by law, the answer of the infant defendants, by G.P. Cridlin, their Guardian ad Litem, duly sworn to, and general replication thereto, and was argued by counsel: On consideration of which, the court doth adjudge, order and decree that Elbert Thompson, J.K.P. Legg and E.M. Cooper, who are hereby appointed Commissioners for the purpose, will go upon the lands described in said bill, survey and locate the same, and lay off and assign to the heirs at law of Elkanah Flanary, deceased one half of said tract of land, and they will lay off and assign to Joel Barker and M.G. Ely, one fifth each of the other half, according to quality and quantity; provided it is practicable to partition said lands, but if said commissioners, after they have located and surveyed said lands find that said lands can not be partitioned among those entitled thereto, they will so report to court. And the cause ~~is~~ continued.



Flanary et al  
vs J. W. Chy.  
Elizabeth Stout et al

Enter this  
June 30<sup>th</sup> 1902  
H. A. U. Steen

Entered on  
C. O. B. No. 7.  
P. 64

Record this 1<sup>st</sup>  
on Deed Book



Virginia

Virginia

At a Circuit court begun and held for Lee county at the Court house thereof on Monday June the 30th 1902

E.S.Flanary, et als,

Plaintiffs

Vs

In Chancery

Elizabeth, Stout, et als

Defendant

This cause came on this day to be heard upon the bill of complainants, and order of publication, duly posted and published as required by law, the answer of the infant defendants, by G.P. Cridlin, their Guardian <sup>ad</sup> Litem, duly sworn to, and general replication thereto, and was argued by counsel : On consideration of which, the court doth adjudge

order and decree that Elbert Thompson, J.K.P. Legg and E.M. Cooper who are hereby appointed Commissioners for the purpose, will go upon the lands described in said bill, survey and locate the same, and lay off and assign to the heirs at law of Elkanah Flanary, deceased one half of

Said tract of land, and they will lay off and assign to Joel Barker and M.G. Ely, one fifth each of the other half, according to quality and quantity; provided it is practicable to partition said lands, but if said commissioners, after they have located and surveyed said lands find that said lands can not be partitioned among those entitled thereto, they will so report to the court. And the cause is continued.

*A Copy*

*Teste: A.B. Munsey Clerk*



Copy for Elbert,  
Thompson.

J. W. Wall D.S.



Virginia,

At a circuit court continued and held for Lee County at the Court-house thereof on Friday November the 14th. 1902.

E. S. Flanary et als, ----- Plaintiffs

vs.

In chancery

Elizabeth Stout, et als, ----- De-fendants.

This cause came on this day to be heard upon the papers formerly read in the cause, the report of the Commissioners, Elbert Thompson, E. M. Cooper, and J.K.P. Legg, and was argued by counsel: On consideration of which and it appearing to the court from said report that it is impracticable to partition said tract of land among the parties entitled thereto, it is adjudged ordered and decreed that M. G. Ely, who is hereby appointed A Special Commissioner for the purpose, will sell the lands described in said bill and report at the front door of the Court-house of the county of Lee, on some court day, to the highest and best bidder, on a credit of one and two years time, except costs of suit and commissions of sale which will be required to be paid cash in hand, and for the deferred payments he will take notes with good personal security bearing interest from date, after having advertised the time by written or printed notices posted at the front door of the court house and in the vicinity of said but said commissioner before acting hereunder shall execute bond before the Clerk of this court in the sum of \$500.00 with approved security conditioned according to law, and report to court. And this cause is continued.

A Copy,

Tests: A. B. Munsey Clerk.

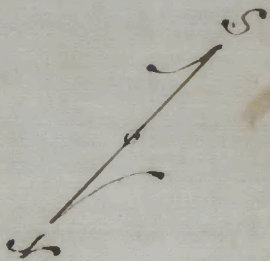


E. S. Flanary et al  
vs Copy of Decree  
Elizabeth Stout et al

Executed Nov 27 1892  
by Believing & True copy  
of the within Decree &  
M. G. Ely atty  
W. J. Milhagen  
S. H. C.

Copy for  
M. G. Ely





Top Stone Mountain

John Rasors  
Heirs claim

50  
11  
50  
26

Jim Bankers claim

PO

488  
S 15 E  
Taylor Line





To The Hon W.A.W. Skene, Judge  
of the Circuit Court of Lee  
County;

In the cause of:

E.S. Flanary & others, Plaintiffs  
vs

Elizabeth, Stout & the Defendant  
Your Commissioners  
beg leave to make the  
following report:

We went upon said land  
on the day of March 1903,  
surveyed and located the same  
and found there to be about  
270 acres as shown hereunto  
upon the accompanying Map,  
and bounded as follows:

Beginning at the mouth of  
Little Cichabach Creek, shown  
on plat at A thence down  
with the North Fork, south 70-  
W. 16 1/2 poles to a Stake, south  
31 pole to a Stake, S 43 E 20  
pole to a Stake, S 20 W 20  
pole to a Stake, S 41 W 16  
pole to a Stake, S 60 W 8 pole  
to a stake S 30 W 10 pole  
S 63 W. about 100 ft to stake & Pine on top of



to a stake on Taylor line,  
thence with the same S 5-1 E 498  
feet to a stake on top of  
Stone Mountain, passing a  
corner to Rogers & Barker at  
344 feet, shown on map at  
C, thence N 60 E 72 feet to a  
stake, thence N. 50 to S. 20 feet  
to the beginning.

Your commissioners did  
not assign to the heirs  
of Enoch Flanagan, or to  
Jesse Beck and M. V. Ely any  
part of said land as all  
of said tract was claimed  
by Jesse Mascoe, his heirs and  
James Barker, except about  
6 acres which lay on the  
south side of North Fork  
of French River, and as your  
commissioners were not  
advised how to proceed under  
such circumstances, they submit  
the facts to the court for  
further order.

Given under our hands this  
6th day of Feb. 1904

W. E. Thompson, comm.  
J. H. P. Legg comm.  
E. M. Cooper comm.



E. S. Flanagan & others  
vs { Report & Plat

Elizabeth Mount & others  
Commissioners Report

Filed Feb'y 8th 1904  
H. C. T. Ewing Clerk.

Cast of Survey.

W. E. Thompson	Survey & com	3 days	6.00
E. M. Cooper	com	2 ..	4.00
J. K. P. Legg	com	2 ..	4.00
Wm. M. Huff		2 "	2.00
E. E. With		2 ..	2.00
A. E. Marris		2 ..	2.00
Lee Barker		2 ..	2.00
			\$22.00

Record this 2<sup>nd</sup> <sup>rept & Plat</sup>  
on Seed Book.

3<sup>rd</sup> Decree entered at  
Feb'y Term



—STATEMENT—

Pennington Gap, Va., ..... 190

Mr. ....

In Account with

## Pennington Gap News

I L. M. Smith Editor of the Pennington  
Gap News, a Weekly Newspaper published  
at Pennington Gap in Lee County Virginia,  
do certify that the appended order of  
Publication from the Circuit Court of  
Lee County in the Case of,

E. S. Flannery et al Plfs,

vs  
Elizabeth Stout et al Defts

} In Chancery

has been published for four successive  
weeks in my paper beginning on  
April 25-1902 and ending May 15-1902

L. M. Smith  
The May 20-1902 Editor



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 9th day of April 1902

against

E. S. Flanary et al

Plaintiff S,

In chancery

Elizabeth Stout et al

Defendant S

The object of this suit is to locate and partition a tract of land  
situated in the Crab Orchard Country in Lee County  
Virginia on the north side of Stone Mountain.  
Said to contain 270 acres, among those entitled  
thereto

And an affidavit having been made and filed that the defendants Elizabeth Stout, Green  
Bailey, Rebecca Bailey, James Bailey and Harrison Bailey  
are not residents of the State of Virginia, it is ordered that they do appear here within fifteen days  
after due publication hereof, and do what may be necessary to protect their interest in this suit. And  
it is further ordered that a copy hereof be published once a week for four weeks in the Perrinington  
Gap News, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the County Court.

A copy—Teste:

M. G. Ely

p. q.

A. B. Munsey

Clerk.



E. S. Flanary et als

vs. {

ORDER OF  
PUBLICATION.

Elizabeth Stout et als

Printers Certificate

Printer \$5.00



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 9<sup>th</sup> day of April 1902

E. S. Flanary et al  
against

Plaintiff S

In Chancery

Elizabeth Stout et al

Defendant S

The object of this suit is to locate and partition a tract of land  
situated in the Crab Orchard, on the north side of Stone  
Mountain, said to contain 270 acres among those  
parties entitled thereto

And an affidavit having been made and filed that the defendant S. Elizabeth Stout, Green  
Bailey, Rebecca Bailey, James Bailey and Harrison Bailey and the  
unknown heirs are not residents of the State of Virginia, it is ordered that They do appear here within fifteen days  
after due publication hereof, and do what may be necessary to protect their interest in this suit. And  
it is further ordered that a copy hereof be published once a week for four weeks in the Pennington  
Gap News, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the County Court.

A copy—Teste:

M. G. Ely

p. q.

A. B. Munsey

Clerk.



E. S. Flanagan et al

vs. {

ORDER OF  
PUBLICATION.

Elizabeth Stout et al

Virginia Lee County To wit  
I A B Munsey, clerk of the  
Circuit Court for Lee County  
do hereby certify that I  
posted a copy of the within  
order of Publication at the  
front door of the Court-  
house of Lee County, on  
the first day of the April  
Term of County Court of  
said County.

Given under my  
hand, this 19th May 1902

A B Munsey Clerk



In the Clerk's Office of the Circuit Court of the County of  
Lee.

E. S. Flanary et als Plaintiff S.  
against

In Chancery

Elizabeth Stout et als Defendant S.

This day M. G. Ely personally appeared

before me, A. B. Munsey Clerk of the said Court,

and being duly sworn, made oath that Elizabeth Stout, Green Bailey, Rebecca Bailey, James Bailey and Harrison Bailey and other unknown  
defendants in the said suit are not residents of the State of Virginia,

Given under my hand as Clerk of the said Court, this 9th day of April

1802

A. B. Munsey Clerk



*E. S. Flanary et al*

vs.

}

AFFIDAVIT FOR ORDER  
OF  
PUBLICATION.

*Elizabeth Stout et al*

*M. H. Ely*

p. q.

*Filed April 9<sup>th</sup> 1902*  
*A. B. Munsey Clerk*